



U.S. Department of Justice

Executive Office for United States Trustees

For Immediate Release

October 19, 2006

AUDITS OF BANKRUPTCY PAPERS **BY INDEPENDENT PUBLIC ACCOUNTANTS** **START IN OCTOBER**

WASHINGTON, D.C.—On October 20, 2006, independent public accountants will commence audits of papers filed in individual bankruptcy cases, the Executive Office for U.S. Trustees (EOUST) announced today. The debtor audit requirement was enacted as part of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA). It applies to chapter 7 and chapter 13 cases filed by individuals on or after October 20, 2006. The audits are to determine the accuracy, veracity, and completeness of petitions, schedules, and other information required to be filed or provided in a bankruptcy case.

At least one out of every 250 individual chapter 7 and chapter 13 cases filed in a judicial district will be randomly selected for audit. In addition, an individual debtor's chapter 7 or chapter 13 case will be selected for audit if the debtor's income or expenses reflect greater than average variance from the statistical norm of the district in which the case was filed.

To support the information disclosed under penalty of perjury in his or her bankruptcy documents, a debtor whose case is chosen for audit will be requested to provide information to an independent firm under contract with the U.S. Trustee Program. The audit will be performed by a certified public accountant or independent licensed public accountant selected through competitive bidding. The audit firm will ask the debtor to provide the firm with documents such as tax returns, account statements, and pay stubs, and the debtor is under a statutory duty to cooperate with the audit firm. This duty is in addition to the debtor's statutory duty to file these documents with the court, and to provide these documents to designated parties.

The audit is not the same as a tax audit or financial audit conducted in accordance with "generally accepted auditing standards," because bankruptcy documents are typically not prepared using generally accepted accounting principles. Therefore, as required under BAPCPA, the audit firm will follow auditing standards developed by the U.S. Trustee Program. These standards are published in the Federal Register at 71 Fed. Reg. 58005 (Oct. 2, 2006).

The audit firm will review the debtor's information and file a report with the bankruptcy court specifying any material misstatement of income, expenditures, or assets. If a material misstatement is found and is not adequately explained, the debtor may be subject to civil enforcement actions by the U.S. Trustee and/or criminal prosecution by the U.S. Attorney. A civil enforcement action may also be brought against a debtor who does not satisfactorily explain a failure to provide papers requested by the auditor.

The U.S. Trustee Program is the Justice Department component that protects the integrity of the bankruptcy system by overseeing case administration and litigating to enforce the bankruptcy laws. The Program has 95 offices in 21 regions. By law, Alabama and North Carolina are not part of the U.S. Trustee Program; in those states, bankruptcy court officials known as Bankruptcy Administrators will supervise debtor audits.

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[End]

for the proper performance of the functions of the agency, including whether the information will have practical utility;

- Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* New data collection.

(2) *Title of the Form/Collection:* National Inmate Survey.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form numbers not available at this time. The Bureau of Justice Statistics, Office of Justice Programs, Department of Justice is the sponsor for the collection.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: State, Local, or Tribal Government. Other: Federal Government, Business or other for-profit, Not-for-profit institutions. The work under this clearance will be used to develop surveys to produce estimates for the incidence and prevalence of sexual assault within correctional facilities as required under the Prison Rape Elimination Act of 2003 (Pub. L. 108–79).

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 90,100 respondents will spend approximately 30 minutes on average responding to the survey.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 45,360 total burden hours associated with this collection.

FOR FURTHER INFORMATION CONTACT: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: September 27, 2006.

Lynn Bryant,

*Department Clearance Officer, PRA,
Department of Justice.*

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DEPARTMENT OF JUSTICE

Debtor Audit Standards

AGENCY: Executive Office for United States Trustees, Justice.

ACTION: Notice.

SUMMARY: This notice sets forth the standards that will be utilized to determine the accuracy, veracity, and completeness of petitions, schedules, and other information that a debtor is required to provide under sections 521 and 1322 of title 11, United States Code, and, if applicable, section 111 of such title, in cases filed under chapter 7 or 13 of such title in which the debtor is an individual.

ADDRESSES: Comments on the standards may be submitted electronically via e-mail to

UST.DebtorAudits.Help@usdoj.gov, or by postal mail at Executive Office for United States Trustees, Debtor Audit Team, 20 Massachusetts Ave, 8TH Floor, Washington, DC 20530. To ensure proper handling, please reference EOUST Debtor Audit Standards on your correspondence. Comments received are public records.

FOR FURTHER INFORMATION CONTACT:

Mark A. Redmiles, Chief, Civil Enforcement Unit, Executive Office for United States Trustees, 20 Massachusetts Ave, 8th Floor, Washington, DC 20530.

SUPPLEMENTARY INFORMATION: The authority for these standards is located at 28 U.S.C. 586(f)(1), and section 603(a) of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (enacted April 20, 2005), Public Law 109–8, 119 Stat. 37.

Dated: September 26, 2006.

Lynn Bryant,

*Department Clearance Officer, U.S.
Department of Justice.*

Debtor Audit Standards

Debtor Audit Standard No. 1

The debtor audit engagement shall be performed by individuals having adequate technical training and proficiency for performing attest engagements.

Debtor Audit Standard No. 2

The debtor audit engagement shall be performed by individuals having adequate knowledge of bankruptcy petitions, schedules, and statements; the Bankruptcy Code; and the Federal Rules of Bankruptcy Procedure.

Debtor Audit Standard No. 3

In all matters relating to the debtor audit, an independence in mental attitude shall be maintained by the individuals performing the engagement.

Debtor Audit Standard No. 4

Due professional care shall be exercised in the planning and performance of the engagement.

Debtor Audit Standard No. 5

The work shall be adequately planned and assistants, if any, are to be properly supervised.

Debtor Audit Standard No. 6

Sufficient evidence must be obtained to provide a reasonable basis for the conclusion expressed in the report filed with the court.

Debtor Audit Standard No. 7

The report shall identify that the subject matter of the debtor audit is the petition, schedules, and other information as originally filed by the debtor in the bankruptcy case and state that the debtor audit was conducted in accordance with the Debtor Audit Standards and the procedures established by the United States Trustee Program.

Debtor Audit Standard No. 8

The report shall clearly and conspicuously state the conclusion as to the presence or absence of material misstatements in income, expenses, or assets, in the petition, schedules, and statements originally filed by the debtor in the bankruptcy case.

Debtor Audit Standard No. 9

The report shall state that it is intended solely for the information and use of the United States Trustee and other parties in interest to the bankruptcy case and that it is not intended to be and should not be used by anyone other than these specified parties; noting however, that since the report is a matter of public record, its distribution is not limited.

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